IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 1294 (SS) OF 2001
(Old No. 49607/1999)

1. Rakesh Nautiyal, son of Sri Dharmanand, resident of village Khalu, P.O. Chamrad, District Pauri Garhwal.
2. Om Prakash, son of Sri Jagat Chandra, resident of Village Rajbar, P.O. Chamlodi, District Pauri Garhwal.
3. Harish Singh, son of Sri Meharban Singh, resident of village Panoli, P.O. Mason Mavalasyu, District Pauri Garhwal.
4. Manwar Singh, son of Sri Rajya Singh Rawat, resident of Village Silli Malli, P.O. Silli, District Pauri Garhwal.
5. Vikram Kumar, son of Sri Haridas, resident of Village and P.O. Saiji, District Pauri Garhwal.
6. Mahendra Singh, son of Sri Jaikrit Singh Rawat, resident of Village Dugela Talla, P.O. Birokhal, Distirct Pauri Garhwal.
7. Ranvir Singh, son of Sri Krit Singh, resident of Village & P.O. Saiji, District Pauri Garhwal. .....Petitioners.

Versus

1. District Inspector of Schools, Pauri Garhwal.
2. Principal Rajkiya Inter College, Pokhara, Pauri Garhwal.
3. Principal Rajkiya Inter College, Veerokhal, District Pauri Garhwal.
4. Principal Rajkiya Inter College, Khairasaird, District Pauri Garhwal.
5. Principal Rajkiya Inter College, Chaurikhal, District Pauri Garhwal.
6. Principal Rajkiya Uchchatar Mkadhyamik Vidyalaya, Dhodiyanakhal, District Pauri Garhwal.
7. Principal Rajkiya Inter College, Raijro, District Pauri Garhwal. .....Respondents.

&

Writ Petition NO. 1285 (ss) of 2001

1. Vikram Singh, son of Sri Trilok Singh, resident of Village Sandaria, P.O. Dwarikhal, District Pauri Garhwal.
2. Deoraj Singh Gosain, son of Sri Yashwant Singh Gosain, President of Village Jhapali, P.O. Adwani, District Pauri Garhwal.
3. Anil Kumar son of late Sri Manohar Singh, resident of Village Nisani, P.O. Nisani, District Pauri Garhwal.

4. Manoj Bharti, son of Sri Pati Ram Bharti, resident of village Pokhari, P.O. Majhgaon, District Pauri Garhwal.
5. Anuj Bhatt, son of Sri Dayadhar Bhatt, resident of Upper Bazar, Pauri, District Pauri Garhwal.
6. Ravindra Singh Negi son of Sri resident of near Circuit House, Pauri, District Pauri Garhwal.
7. Dinesh Singh Rawat, son of Sowan Singh, resident of Circuit House, Pauri, District Pauri Garhwal.
8. Kishan Singh son of late Sri Govind Singh Bisht, resident of village Bhainswalia, P.O. Rampur Rawantsyun, District Pauri Garhwal.
9. Yashwant Singh, son of Sri Gandhi Singh, resident of village Ghayasu, P.O. Devikhal, District Pauri Garhwal.
10. Sanjeev Singh Negi, son of Sri Daulat Singh Negi, resident of Village Dewar, P.O. Khandi Sain, District Pauri Garhwal. .....Petitioners.

Versus

1. District Inspector of Schools, Pauri Garhwal.
2. Principal Rajkiya Uchchatar Madhyamik Vidyalaya, Jaspur, District Pauri Garhwal.
3. Principal Rajkiya Inter College, Veerokhal, District Pauri Garhwal.
4. Principal Rajkiya Uchattara Madhyamik Vidyalaya, Diusi, District Pauri Garhwal.
5. Principal Rajkiya Inter College, Chakisain, District Pauri Garhwal.
6. Principal Rajkiya Inter College, Kamalkhet Bandoorh, District Pauri Garhwal.
7. Principal Rajkiya Inter College, Farsandi, District Pauri Garhwal.
8. Principal Rajkiya Inter College, Dugadda, District Pauri Garhwal.
9. Principal Rajkiya Kanya Inter College, Veerokhal, District Pauri Garhwal. .....Respondents.

&

Writ Petition NO. 2682 (ss) of 2001

1. Manveer Singh, S/o Mahabir Singh Rawat, R/o Bharauli Khal, Pauri Garhwal.
2. Dalveer Singh Rawat, S/o Shankar Singh Rawat, Badrkhod Paini, District Pauri Garhwal.
3. Virendra Singh, S/o Govind Singh, R/o Mahadevah Patti, District Pauri Garhwal. .....Petitioners.

Versus

1. State of U.P., through Director Intermediate Education, U.P. at Allahabad.
2. District Inspector of Schools, Paurigarhwal.

.....Respondents.

14.02.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Gopal Narain, learned counsel for the petitioners and learned Standing Counsel for the respondents.

By the present writ petitions, the petitioners have prayed for a writ of certiorari quashing the orders dated 01.11.1999 passed by the District Inspector of Schools.

Petitioners have filed present writ petitions challenging the impugned order on the ground that no opportunity of hearing was afforded to the petitioners.

Learned counsel for the petitioners has relied upon the order dated 30th August, 2005 by which the writ petition has been allowed on the ground that no opportunity of hearing was afforded to the petitioners.

A counter affidavit has also been filed by the learned Standing Counsel stating therein that the appointment of the petitioners was wholly irregular and therefore, the order impugned has been passed after taking into consideration the irregular appointment.

The petitioners have relied upon the judgment dated 30th August, 2005 passed in Writ Petition No. 5300 (SS) of 2001 Raghuvir Singh Bisht Vs. Joint Director of Education and others. Relevant observations are quoted below:-

"Admittedly, in this case, notice was not been given to the petitioner before holding that his appointment is irregular or unauthorized and ordering termination of his service. The Apex Court in the case of Basudeo Tewari v Sido Kanhu

University and ors. reported in 1998 (6) Judgment Today, page 464 has held that prior to terminating the service of an employee on the ground that the appointment of the employee is not in accordance with law, notice should have been issued to the person concerned and opportunity of hearing must be given to him.

In the present case, no opportunity of hearing has been given to the petitioner and without giving notice; his services have been terminated. Thus the order impugned dated 01.11.1999 terminating the services of the petitioner is liable to be quashed.

According, the writ petition is allowed. The impugned order dated 01.11.1999 passed by District Inspector of Schools, Pauri Garhwal, is hereby quashed. No order as to costs."

The order of termination shows that the petitioners have been terminated vide order dated 01.11.1999. There was a stay order order dated 17.11.1999 passed in Writ Petition No. 48101 of 1999 Vikram Singh and others Vs. DIOS and others.

As will appear from the order of stay dated 17.11.1999 that the petitioners are still working in the department.

Considering the length of the service of the petitioners and stay order granted in their favour, it is desirable in the interest of justice that an opportunity be given to the petitioners and the respondent no. 1 may pass the order afresh after taking into consideration the judgment of this Court dated 30th August, 2005 passed in Writ Petition No. 5300 (ss) of 2001 Raghuvir Singh Bisht Vs. Joint Director of Education, Garhwal Mandal, Pauri and others.

Writ petitions are disposed of. No order as to costs.

(Rajesh Tandon, J.)

14.02.2006
Rathour